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10/563,949	05/11/2006	Thorsten Bendel	Y05Y013	3568

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EXAMINER	
MERLINO, ALYSON MARIE	
ART UNIT	PAPER NUMBER
3673	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/563,949	BENDEL, THORSTEN	
	Examiner	Art Unit	
	ALYSON M. MERLINO	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 July 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 January 2006 and 01 July 2009* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The examiner acknowledges applicant's amendments to claims 1 and 3-10, and the cancellation of claim 2 filed 1 July 2009.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least one operating lever must be shown or the feature(s) canceled from the claim(s). Specifically, the claims recite at least one operating lever, however, the drawings only show a single operating lever. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. **Claims 1 and 3 are objected to** because of the following informalities:

a. In regards to claim 1, line 7, the word “and” should be removed between the phrases "rotational axis" and "a rear-sided."

b. In regards to claim 3, lines 2 and 3, the phrase “fixed to latch housing” should be changed to “fixed to a latch housing,” and in lines 3 and 4, the limitation "limits the movements of rotation of the motor drive to the actuation and reversing direction" should be changed to “limits the movements of rotation of the drive disk to the actuation and reverse directions" in accordance with claim 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claim 10 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear how the counterforce is generated by the spring to cause the came to engage the operating lever to set and maintain it in the position shown in newly amended Figure 3, when it is clear that the flat face of the cam in cooperation with the operating lever also aids in maintaining the operating lever in the

position shown in Figure 3. For examination purposes, the claim will be given a broad interpretation until further clarification from applicant.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1 and 3-10 are rejected** under 35 U.S.C. 102(b) as being anticipated by Nass et al. (WO 03/018939).

8. Within the rejections below, the Paragraph numbers referred to in regards to Nass et al. are drawn from the machine translation of the Nass et al. reference included with a previous Office Action mailed to applicant on 30 May 2007.

9. **In regards to claim 1**, Nass et al. a vehicle door latch (Figure 1) having a locking mechanism 1, 2, at least one operating lever 3 for the locking mechanism (Figure 1), and a motor drive 5, 6, 7, 8, 9 containing a driver disk 7 with a front-sided cam 9 for causing a reciprocating motion of the at least one operating lever (apparent from Figures 1-4), with the cam having an irregular-shaped wheel (portion at reference character 9, Figure 1) and an end portion (portion having axis 10, Figure 1) located about a cam rotational axis 10 coincident with a drive disk rotational axis (apparent from Figure 1), a rear-sided element 12 (rear sided with respect to locking mechanism component 1, Figure 1) limiting the angle of rotation (apparent from Figures 1-3), and an electric motor 5 for causing a rotation of the drive disk in an actuation direction (direction

shown in Figure 1) and in a reverse direction (apparent that the motor allows or causes the reverse direction since the element limiting the angle of rotation cooperates with the motor to return the drive disk to a starting position, i.e. cause rotation of drive disk in a reverse direction, apparent from Paragraph 17), with the rotations being limited by the element limiting the angle of rotation (apparent from Figures 1-3), wherein the motor drive opens the locking mechanism by directly acting upon the locking mechanism solely via contact of the cam with the at least one operating lever (apparent from Figures 1-4).

10. **In regards to claim 3**, Nass et al. discloses that the element limiting the angle of rotation cooperates with a stationary stop 13, 14 (stationary on portion 7), preferably fixed to a latch housing (apparent that the door latch device would be housed in a housing, Figures 1-4), and limits the movement of the rotation of the drive disk to the actuation and reverse directions (spring limits movement, Figures 1-3).

11. **In regards to claims 4 and 5**, Nass et al. discloses that the at least one operating lever contains at least two arms, specifically three, an operating arm (arm portion near reference character 3a, Figure 1), an actuation arm (arm portion near reference character 2, Figure 1), and an additional opening arm (arm portion near reference character 4, Figure 1).

12. **In regards to claim 6**, Nass et al. discloses that the operating arm is acted upon by the drive (Figure 1) while the actuation arm acts upon the locking mechanism (engagement with pawl 2).

13. **In regards to claim 7**, Nass et al. discloses that the motor drive acts upon the at least one operating lever in its actuating direction (direction of disk and arm shown in Figure 3) for opening the locking mechanism until the element limiting the angle of rotation rests against the stop in an opening position (position of element in Figure 3).

14. **In regards to claim 8**, Nass et al. discloses that door latch is capable of maintaining the opening position (open until spring reverses movement of operating lever, Figures 3 and 4) until the locking mechanism has been reliably opened.

15. **In regards to claim 9**, Nass et al. discloses that the at least one operating lever pivotally engages the pawl of the locking mechanism to open the locking mechanism and then the motor drive is acted upon in reverse direction until the pawl, held previously by the at least one operating lever, is released (Paragraph 53 and apparent from Figures 1-4).

16. **In regards to claim 10**, Nass et al. discloses that in an opening position (Figure 3) of the drive disk, a counterforce generated by a spring 16 on the at least one operating lever, runs radially through the cam in the direction of a rotation axis (axis at reference character 10, Figure 1) of the drive disk without providing a lateral force running in the actuation direction or in the reverse direction of the drive disk (apparent since spring 16 is located at a pivot point of the at least one operating lever, offset from the axis of the drive disk, Figure 1), wherein the counterforce generated by the spring causes the cam to engage the at least one operating lever to set and maintain the opening position of the drive disk (apparent from the position shown in shadow, with a face of the cam cooperating with the at least one operating lever, Figure 3).

Response to Arguments

17. Applicant's arguments with respect to claims 1 and 3-10 have been considered but are moot in view of the new ground(s) of rejection.

18. In regards to applicant's remarks concerning the substance of the telephone interview of June 24, 2009, the examiner would like to note that in regards to the Fukumoto reference, the claim language of claim 1 only requires that the electric motor is "for causing" a rotation of the drive disk in an actuations direction and in a reverse direction. The electric motor of Fukumoto is capable of being stopped, as discussed in Col. 3, lines 28-36, and therefore, "causes" the reverse direction of the drive disk. The claim language does not require that the motor itself turns in a reverse direction, thus rotating the drive disk in a reverse direction. This also applies to the interpretation of the Nass et al. reference used in the rejections above. In regards to claim 10, the examiner appreciates applicant's amendments to Figure 3 regarding the counterforce language found in claim 10, however, after further review of the amendments to claim 10 and the substance of the claim, a rejection under 35 U.S.C. 112, second paragraph, is set forth above.

19. The examiner appreciates applicant's amendments to the claims, and therefore, the claim objections set forth in the previous office action are withdrawn.

20. After further review of the claims, it was determined that the drawings only show a single operating lever, and it is unclear how more than one or at least one operating lever would be incorporated into the device, see drawing objection set forth above.

Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALYSON M. MERLINO whose telephone number is (571)272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter M. Cuomo/
Supervisory Patent Examiner, Art Unit 3673

AM
November 19, 2009